

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAVIER ONTIVEROS,

Defendant.

CASE NO. 8:07CR173

**AMENDED
TENTATIVE FINDINGS**

The Court has received the Presentence Investigation Report ("PSR") in this case. The government adopted the PSR. (Filing No. 94.) The Defendant objected to the PSR.¹ (Filing No. 96.) See Order on Sentencing Schedule, ¶ 6. The government adopted the PSR. (Filing No. 94.) The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Defendant's objections to his reported legal name and country of citizenship are denied in light of the information in ¶ 38 and because these issues do not affect the sentencing guideline calculation. Had the objections been submitted initially to the probation officer, the Court would have the benefit of the officer's response.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the PSR is correct in all respects;
2. The Defendant's objections (Filing No. 96) are denied;

¹It appears that the objections were not filed initially with the probation officer prior to the preparation of the final PSR, as required in the Order on Sentencing Schedule.

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 5th day of December, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge